



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/152411

PRELIMINARY RECITALS

Pursuant to a petition filed September 27, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on October 31, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's Medicaid eligibility is correctly subject to meeting a deductible.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Lashun Johnson
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was a recipient of BadgerCare+ Core benefits but as of January 2012 Petitioner's grandchild (a child under age 18) moved into Petitioner's home. At that point he became eligible for BadgerCare+. The household consisted of Petitioner, his spouse and the grandchild.

3. Petitioner's granddaughter left Petitioner's household as of September 2013 changing Petitioner's household to a group of 2; himself and his spouse. This resulted in the discontinuance of Petitioner's BadgerCare+.
4. With the end of BadgerCare+ eligibility Petitioner applied for disability based Medicaid. He was found to be presumptively disabled but not Medicaid eligible until he met a deductible in the amount of \$8811.54.
5. At the time of the deductible determination Petitioner and his spouse had income of \$2080.26. After a \$20.00 disregard, the household income was compared to the Medicaid needy income limit of \$591.67 and the deductible for \$8811.54 established.

DISCUSSION

If a person on BadgerCare+ Core Medicaid becomes eligible for the BadgerCare+ Standard Plan, Core eligibility ends and, if BadgerCare+ Standard plan ends, is only restored within the original Core 12 month certification period. *BadgerCare + Eligibility Handbook*, §§43.2 and 43.11.1. But, eligibility for BadgerCare+ is dependent on having a child under age 19 in the household. *BEH*, §2.1.

Thus, when Petitioner's granddaughter moved from Petitioner's home, Petitioner was no longer BadgerCare+ eligible and could not re-enroll in BadgerCare+ Core.

As for the imposition of a deductible, while the elderly and disabled are typically nonfinancial eligible for MA those individuals must still meet financial requirements. *See generally* §49.47, *Wis. Stats.*

When a person's income is over the MA income limit an MA deductible, also known as a spend down, must be met before eligibility begins, *See Wis. Stats. § 49.47(4)(c) 2; Wis. Adm. Code §DHS 103.08(2)(a) and Medicaid Eligibility Handbook (MEH), §§24.1 & 24.2.* The Medicaid *income* limit for a one or two person household is \$591.67. *See MEH, §39.4.1.* Medicaid deductibles are calculated for six-month periods. *See Wis. Adm. Code, §DHS 103.08(2)(c) and MEH, § 20.2.0.* The deductible is met by incurring medical expenses that equal the dollar amount of the deductible. *MEH, §24.2.*

The rules and regulations governing the Medicaid program allow no exceptions and the Division of Hearings and Appeals does not have the authority to alter the law on this program. I have reviewed the agency's deductible calculations and do not find any errors in the new determination of an \$8811.54 deductible. Petitioner should submit all medical expenses that he incurs to the agency. This includes health insurance premiums.

As an aside I also note that Petitioner's household had earned income of \$35.00 per month and that was no longer earned as of the hearing. It was not, however, included in the deductible calculation as it is under the \$65.00 and ½ earned income disregard.

CONCLUSIONS OF LAW

1. That the agency correctly determined discontinued Petitioner's BadgerCare+ when Petitioner's granddaughter moved out of Petitioner's home and could re-enroll Petitioner in BadgerCare+ Core.
2. That Petitioner is required to meet a Medical Assistance deductible in the amount of \$8811.54 in order to be certified eligible for Medicaid.

THEREFORE, it is

ORDERED

That this appeal dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

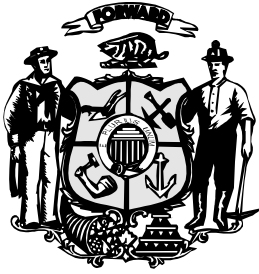
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 17th day of December, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 17, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability